IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2077 OF 2006

Sunny Newandram Khushalani & Ors. ...Petitioners

Vs.

Renu Lachhamandas Utwani & Ors. ...Respondents

Shri T.A.Thakur for the Petitioners.
Shri Rahul Arole for the Respondent No.1.
Shri A.S.Shitole, A.P.P for the State.

CORAM : A. S. OKA, J.
DATE : OCTOBER 11, 2006.

JUDGMENT:

1. Rule. The learned A.P.P waives service for the second Respondent. The learned Advocate for the first Respondent waives service. Considering the facts and circumstances of the case, taken up for hearing forthwith.

2. The prayer in this Petition under Article 227 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973 is for quashing the F.I.R filed by the second Respondent. The second Respondent alleged the commission of offences under section 498-A, 323, 506 read with section 34 of the Indian Penal Code. The first Respondent is the wife of the first Petitioner. It is stated that as per the consent decree passed by the Family Court, the marriage

solemnised between the first Petitioner and the first Respondent has been dissolved. In the consent terms filed before the Family Court, the first Respondent agreed to withdraw the criminal case filed against the Petitioners. The first Respondent has filed an affidavit. In paragraph Nos.3 to 4 of the said affidavit, the first Respondent has stated thus:

> "3. I further state that the petition filed by the petitioner for divorce was converted into petition for Divorce by Mutual Consent and accordingly a decree was passed by the Hon'ble Family Court dated 14/8/2006 and the said marriage was dissolved. Here to annexed and marked as EXHIBIT "I" the copy of Decree and Judgment passed on 14/8/2006 collectively.
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> 4. I further state that as the matter is settled amicably and marriage is dissolved by the decree of divorce and the petitioner has deposited the amount as per the consent term before the Hon'ble family court, I have NO OBJECTION if the said petition is allowed and FIR is quashed".

3. It is thus obvious that the F.I.R was lodged by the first Respondent as a result of her matrimonial dispute with the first Petitioner. Now there is a complete settlement between the parties. It is thus obvious that continuation of criminal proceeding will cause sheer harassment to both the parties. Hence, a case is made out for exercising jurisdiction under section 482 of the said Code. Accordingly, rule is made absolute in terms of prayer clause (a).

JUDGE